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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/824,263	04/13/2004	Siddhartha Gaur	17133.002002	6517
7590 John W. Montgomery Osha & May L.L.P. Suite 2800 1221 McKinney Street Houston, TX 77010				
07/11/2008				
EXAMINER HENDRICKSON, STUART L.				
ART UNIT 1793				
PAPER NUMBER				
MAIL DATE 07/11/2008				
DELIVERY MODE PAPER				

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/824,263

**Applicant(s)**

GAUR ET AL.

**Examiner**

Stuart Hendrickson

**Art Unit**

1793

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 March 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-100 and 102-112 is/are pending in the application.
- 4a) Of the above claim(s) 1-30, 73-100 and 102-112 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 31-72 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 31-72 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Zondlo et al. 5955375.

Zondlo teaches in column 11 making a carbon material by mixing several carbon sources, molding and heating. The heating steps are deemed to perform the adhering, collapsing, etc. as the non-carbon materials and elements are removed from the structure. Zondlo suggests ash removal in column 12. No differences are seen in the product; the examiner is not obligated to find all the process steps of a product-by-process claim.

Claims 31-72 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Ubbelohde 4213956.

The reference teaches in col. 5 and 6 carbonizing two carbon sources, with shaping. No differences are seen in the product; the examiner is not obligated to find all the process steps of a product-by-process claim.

Claims 31-72 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Morgan 3867499.

The reference teaches in col.4-5 carbonizing two carbon sources (one being the additive), with shaping and void collapse.

No differences are seen in the product; the examiner is not obligated to find all the process steps of a product-by-process claim.

Claims 31-72 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Tither et al. article.

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Tither teaches, especially on pgs. 644 and 650-652 carbon material made at 500 degrees and containing various kinds of carbon bonding. No difference is seen in the product, since these features correspond to what the invention is said to be.

Applicant's arguments filed 3/26/08 have been fully considered but they are not persuasive. The Declaration is unsupported opinion; it is not clear why the references do not make the claimed carbon. The arguments overlook the fact that graphitic domains in the carbon starting materials do not un-graphitize. Thus, the claims do not exclude graphite or graphitic regions. Moreover, applicant should be prepared to discuss why the claims do not read upon the 'carbon alloys' as presented in the reference titled 'carbon alloys'. Suffice it to say that a product is not limited to the temperature at which it was made, even if the temperature can have an effect on the overall structure.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication should be directed to examiner Hendrickson at telephone number (703) 308-2539.

/Stuart Hendrickson/  
examiner Art Unit 1793